REMARKS

Claims 1-84 are pending in the present application. The Final Office Action dated 04/16/2007 (the "FOA") rejected Claims 1-84. None of the claims are amended. Applicants respectfully request reconsideration of the rejections in view of the remarks below.

Telephone Interview Summary

A telephone interview was held on June 4, 2007. Applicants' attorney requested clarification on the Examiner's understanding of the term "quantity" in the independent claims, in view of the FOA's reference to term "number" with relation to an identification code disclosed by the Hornbuckle reference. The Examiner referred to the explanation given on pages 4 and 5 of the FOA. In particular, the Examiner referred to a portion of the FOA that states: "Please note that [Hornbuckle's] package key which being the unique package identifier associated with each different game is readable as a rental package identifier, and the 8-character package identifier code is interpreted as a predefined number." Applicants' attorney responded that the FOA explanation uses the term "number" rather than the term "quantity," which is specified in the independent claims. Applicants' attorney further noted that the 8-character packaged identifier, which the FOA interpreted as a predefined number, indicates an identifier for the rental package, rather than a predefined quantity of virtual containers, as specified in the independent claims.

The Examiner then asked for further clarification of "virtual containers." Applicants' attorney referred to the example embodiment shown in figure 9 of the specification, which shows a 10-game package of virtual slots, where the virtual slots are examples of virtual containers. Applicants' attorney explained that figure 9 shows a rental package of a predefined quantity of 10 virtual containers.

The Examiner indicated that virtual containers could be interpreted to mean physical memory, storage discs, or online storage of movies, music, or games. The Examiner referred to the iTunes™ service from Apple Computer™ in which a user can purchase multiple music downloads.

The Examiner also referred to music clearing services that offered a one-time set of discs or tapes when a person agreed to purchase a certain number of other discs or tapes over a predefined period.

Applicants' attorney noted that these references are not cited anywhere in this case, and that these examples do not disclose or suggest the claim language directed to on-line rental service for software, including a package of a predefined quantity of virtual containers each of which is configured to identify the one or more software products accessible to the set of users. Applicants' attorney also noted that the claim language specifies that *each* virtual container is configured to identify one *or more* software products, which is not possible with the non-cited examples and the cited references. Applicants' attorney further noted that the discussion indicates that the Examiner now has an entirely different interpretation of a predefined quantity of virtual containers, than the interpretation in the FOA, which states that "the 8-character package identifier code is interpreted as a predefined number."

Applicants' attorney understood the Examiner to say that the Examiner proposed to provide a telephone interview summary with a detailed explanation of the Examiner's interpretation. No other agreement was reached. As of the filing date of this response, no interview summary has been received.

The 35 U.S.C. § 103 rejection of Claims 1-82 over Allan, Bass & Hornbuckle:

Claims 1-82 were rejected under 35 U.S.C. §103(a) as being unpatentable over Allan et al. (U.S. Patent No. 6,526,456, referred to herein as Allan) and Bass et al. (U.S. Patent No. 6,744,446, referred to herein as Bass) in view of Hornbuckle (U.S. Patent No. 5,613,089, referred to herein as Hornbuckle).

Despite Applicants' prior amendment to explicitly state a rental package of a predefined "quantity" of virtual containers, the FOA does not address the amended claim language, but instead repeats the prior rationale based on the prior claim language. The FOA includes one instance of the term "quantity," where the FOA admits that "Allan fails to explicitly disclose the step of assigning a

virtual container (s) to user or quantity of virtual containers." Underline in original, FOA, pg. 3, lines 6-7. In this and most other instances, the FOA refers to fragments of the claim language out of context of the entire claim. Here, the FOA repeats its rationale regarding the Bass reference, which uses a plural form of the term "virtual containers," but the FOA again fails to address the entirely different meaning of the term "virtual containers" in Bass relative to terms used in Allen and/or Hornbuckle. Instead, the FOA simply repeats its prior rationale that "Bass discloses a method/apparatus [to] . . . enable a user to configure the network by assigning virtual containers (see., abstract, col 2, lines and 67 and 68, col 3, lines 1-8)." FOA, pg. 3, lines 7-10. Applicants continue to contend that Bass teaches away from the claim language. Bass teaches that a *user assigns* virtual containers that define a data routing speed between network nodes in a Synchronous Digital Hierarchy (SDH) network. See Bass, col. 1, lines 36-58 and col. 3, lines 2-3. In contrast, the independent claims specify *assigning a collection of virtual containers to a set of users* , each virtual container being configured to identify one or more software products that are rented by users. The Examiner admitted this difference in a telephone interview dated April 11, 2006, and subsequently issued a non-final office action on April 25, 2006 that first cited Hornbuckle.

Since then, the office actions and the current FOA state that "Allan and Bass fail to explicitly disclose the claimed limitation wherein [] the collection identifying a rental package of a predefined number of the one or more software products." FOA, pg. 3, lines 14-16, and See OA dated November 6, 2006, pg. 4, lines 13-15, and See OA dated April 25, 2006, pg. 3, lines 14-16. Instead, the FOA again repeats rationale based on an identifier code disclosed in Hornbuckle. However, this ignores Applicants' prior amendment that explicitly specified the inherently clear claim limitation by replacing the term "number" with the term "quantity." Nevertheless, the FOA again repeats that Hornbuckle's "8-character package identifier code is interpreted as a predefined number." FOA, pg. 5, lines 7-8.

Applicants respectfully continue to disagree with this interpretation. One of ordinary skill in the art would not consider an identifier code to disclose or suggest the plain meaning of a predefined quantity. The specification also provides guidance on the meaning of the claim term. See e.g., Spec., pg. 12, lines 20-25, pg. 13, lines 5-14, Figs. 8 and 9. As evidenced in the telephone interview

summary, even the Examiner abandoned the FOA interpretation of an identifier code, and instead referred to a quantity of songs or a quantity of discs. At the very least, the misinterpretation of the term "quantity" should cause the finality of the FOA to be withdrawn.

The FOA also repeats rationale "to modify the teachings of Allan and Bass by including the limitation detailed [in the FOA] as taught by Hornbuckle because this would prevent unauthorized use, copying, vandalism and modification of downloadable data and programs during or after transmission to the target computer." FOA, pg. 3, line 22 through pg. 4, line 3. The FOA further repeats citations to a number of cases regarding motivation to combine references, and concludes that "the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. In re Soli, 317 F.2d 941 137 USPQ 797 (CCPA 1963)." FOA, pg. 6, lines 9-11, citing from Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

However, it is not logical and sound scientific reasoning to change the fundamental principle of operation of one or more of the cited references. The FOA continues to ignore the Patent Office's own examination procedures, which state that "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." MPEP 2143.01 VI, citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The FOA and prior office action do not address this issue.

As explained in detail in Applicants prior response filed August 23, 2006, Hornbuckle discloses that "[e]ach software package is encrypted with a package key . . ." (Hornbuckle, col. 16, lines 36-37.) Correspondingly, "a downloaded rental software package will only run on the particular target computer 14 having an encryption key corresponding to the encryption key employed by the host computer 12 when the key module of the rental software package was encrypted." (Hornbuckle, col. 12, line 66 through col. 13, line 3.) "[T]he package key associated with the software package is downloaded to the RCM 21 associated with the user's game computer 15." (Hornbuckle, col. 16, lines 42-44.) Thus, Hornbuckle uses the downloaded package

key to decrypt the encrypted software package at the target computer. In fact, Hornbuckle also encrypts the package key for transmission to the target computer. (See, Hornbuckle, col. 16, lines 44-47.)

In contrast, Allan teaches that "at the [subscriber computer] SC 14 the software product is not returned to its original form; its control thread remains obscured . . ." (Allan, col. 5, lines 20-21.) Instead, an authorization agent (AA) supplies the SC with an authorization subroutine reference table (ASRT), which enables the SC to "determine target addresses of calls to relocatable subroutines during execution of the software product . . ." (Allan, col. 2, lines 35-37, and see col. 5, lines 16-20.) Allan emphasizes that "the invention enables an arrangement to be provided in which any software product can be freely distributed, and execution of the software product is permitted . . . without the software product being returned to its original form." (Allan, col. 5, lines 34-41.) Thus, Allan teaches away from encrypting the software product. (See also, Allan, col. 1, lines 15-25.) Moreover, because Allan teaches that the software product is not returned to its original form, modifying Allan to include the 8-character package key for encryption as taught by Hornbuckle and detailed in the FOA, would change Allen's fundamental principal of operation. Consequently, there is not logical or sound scientific reason to combine Hornbuckle with Allan and Bass.

For at least the reasons above, Applicants respectfully request that the rejection of independent Claims 1, 33, 36, 37, 44, 76, 79, and 82-84 under 35 U.S.C. §103(a) be withdrawn. Dependent claims are patentable for at least the same reasons as the independent claims from which the dependent claims depend. Accordingly, Applicants respectfully request that the rejection of dependent Claims 2-32, 34, 35, 38-43, 45-75, 78, 80, and 81 under 35 U.S.C. §103(a) also be withdrawn. At the very least, the finality of the FOA should be withdrawn until a clear and consistent interpretation of the quantity of virtual containers is stated, and corresponding claim limitations are substantively addressed.

CONCLUSION

In view of the foregoing remarks, Applicants believe that this response has responded fully to the concerns expressed in the OA and that each of the pending claims is in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

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Respectfully submitted,

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